

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

POLYCOM, INC.,	)	
	)	Civil Action No. 4:11-cv-1018
Plaintiff,	)	
	)	
vs.	)	
	)	JURY TRIAL
D&S COMMUNICATIONS, INC. and	)	
DYNAMIC VOICE DATA, INC.,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

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**AGREED PARTIAL JUDGMENT**

Based on the findings and conclusions entered concurrently with this judgment, and with the agreement of plaintiff Polycom, Inc. and co-defendant Dynamic Voice Data, Inc., the Court finds that judgment should be entered in favor of Polycom, Inc. and against co-Defendant Dynamic Voice Data, Inc. ("DVD"). Pursuant to the confidential Settlement Agreement entered into by Polycom and DVD, which has been filed under seal in this matter, the Court retains jurisdiction to enforce the terms of said Settlement Agreement and further ORDERS as follows:

1. Subject to the right to make nominative fair use as provided in Paragraph 3 below, DVD, its officers, agents, servants, employees, attorneys, successors, assigns, related companies, and all those acting in concert with any of them are hereby permanently enjoined from using, in connection with the promotion, advertising, or offering of telephones, telephone repair services, telephone component products, or any related goods or services any of Polycom's registered trademarks as shown in the attached Schedule A, any trade dress or any name or mark confusingly similar to any of such marks or trade dress.


2. Within ten (10) business days after the date of this Agreed Partial Judgment, DVD

is required, in accordance with 15 U.S.C. § 1118, to deliver to Polycom for destruction all parts bearing any depiction of Polycom's registered trademarks in the possession of DVD.




3. Nothing in this Agreed Partial Judgment or the Settlement Agreement, however, shall be construed to prohibit DVD from (i) manufacturing, offering for sale, selling, or distributing replacement parts, components, or subcomponents for Polycom- or Spectralink-branded products wherein such replacement parts, components or subcomponents are not protected by a patent owned by Polycom and do not bear a Polycom trademark and/or (ii) making nominative fair use of the Polycom trademarks to truthfully communicate that such replacement parts, components, or subcomponents are designed to fit Polycom- or Spectralink-branded products or to replace parts, components, or subcomponents thereof.




4. Pursuant to the agreement of the parties, the disposition of costs and fees is fully addressed by the monetary terms of the confidential Settlement Agreement, and there shall be no further award of fees or costs relating to the complained-of activities that occurred before the entry of this Judgment.



SIGNED this 27<sup>th</sup> day of May, 2011.

By:   
HON. NANCY F. ATLAS  
UNITED STATES DISTRICT JUDGE

### SCHEDULE A

Mark	Reg. No.	Reg. Date	Goods and Services
<b>POLYCOM</b>	1,783,295	07/20/1993	(I.C. 9) Teleconferencing products; namely, audio and graphic terminals, audio and graphic computer software, and audio and graphic bridges used for teleconferencing.
<b>POLYCOM</b>	3,020,685	11/29/2005	(I.C.38) Audio teleconferencing; network conferencing services; providing facilities and equipment for video conferencing; providing telephone conferencing services; telecommunication services, namely, local and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite transmissions; video teleconferencing; web conferencing services; wireless electronic transmission of voice signals, data, facsimiles, images and information.
<b>POLYCOM w/ Triangles Logo:</b>  <b>POLYCOM</b>	1,784,786	07/27/1993	(I.C. 9) Teleconferencing products; namely, audio and graphic terminals, audio and graphic computer software, and audio and graphic bridges used for teleconferencing.
<b>POLYCOM w/ Triangles Logo above:</b>  <small>POLYCOM</small>	1,912,272	08/15/1995	(I.C. 9) Teleconferencing products; namely, audio and graphic terminals, audio and graphic computer software, and audio and graphic bridges used for teleconferencing.
<b>SPECTRALINK Logo (in color):</b> 	3,164,995	10/31/2006	(I.C. 9) Telephones, telecommunication equipment and software, namely, wireless telephones; batteries; battery chargers; wireless handheld communication devices to access local wireless networks; computer communications servers for managing the quality of voice transmissions sent in a local wireless or computer network; computer hardware and software for connecting private branch exchange equipment or telephone lines to a local wireless or computer network; computer hardware and software for sending data transmissions, by way of local wireless network or computer network, to wireless handheld communication devices; and computer software for managing the quality of voice transmissions in a local wireless or computer; computer software and hardware for telephone systems, not for use with modems.

Mark	Reg. No.	Reg. Date	Goods and Services
<b>SPECTRALINK</b> <b>Logo:</b> 	3,164,996	10/31/2006	(I.C. 9) Telephones, telecommunication equipment and software, namely, wireless telephones; batteries; battery chargers; wireless handheld communication devices to access local wireless networks; computer communications servers for managing the quality of voice transmissions sent in a local wireless or computer network; computer hardware and software for connecting private branch exchange equipment or telephone lines to a local wireless or computer network; computer hardware and software for sending data transmissions, by way of local wireless network or computer network, to wireless handheld communication devices; and computer software for managing the quality of voice transmissions in a local wireless or computer; computer software and hardware for telephone systems, not for use with modems.
<b>SPECTRALINK</b>	2,994,870	09/13/2005	(I.C. 9) Telephones, telecommunication equipment and software, namely, wireless telephones; batteries; battery chargers; wireless handheld communication devices to access local wireless networks; computer communications servers for managing the quality of voice transmissions sent in a local wireless or computer network; computer hardware and software for connecting private branch exchange equipment or telephone lines to a local wireless or computer network; computer hardware and software for sending data transmissions, by way of local wireless network or computer network, to wireless handheld communication devices; and computer software for managing the quality of voice transmissions in a local wireless or computer.
<b>SPECTRALINK</b>	1,851,886	08/30/1994	(I.C. 9) Computer software and hardware for telephone systems, not for use with modems.
<b>Triangles Logo:</b> 	1,794,159	09/21/1993	(I.C. 9) Teleconferencing products; namely, audio and graphic terminals, audio and graphic computer software, and audio and graphic bridges used for teleconferencing.
<b>Triangles Logo:</b> 	3,020,708	11/29/2005	(I.C. 38) Audio teleconferencing; network conferencing services; providing facilities and equipment for video conferencing; providing telephone conferencing services; telecommunication services, namely, local and

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			long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite transmissions; video teleconferencing; web conferencing services; wireless electronic transmission of voice signals, data, facsimiles, images and information.
<b>Triangles Logo (Red):</b> 	3,767,458	03/30/2010	<p>(I.C. 9) Computer hardware; Computer hardware and peripheral devices; Computer software and hardware for teleconferencing and video conferencing; Computer software for integrating, controlling, enhancing, securing, and managing video, voice and data communications; Digital telephone platforms and software; Speakerphones.</p> <p>(I.C. 38) Audio teleconferencing; Network conferencing services; Providing facilities and equipment for telepresence conferencing; Providing facilities and equipment for video conferencing; Providing telephone conferencing services; Provision of video conferencing services; Telecommunication services, namely, local and long distance transmission of voice, data, graphics and video by means of broadband, copper and optical or wireless networks; Telecommunication services, namely, local and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite transmissions; Teleconferencing and video conferencing services; Telepresence conferencing services; Video conferencing services; Video teleconferencing; Web conferencing services; Wireless electronic transmission of voice signals, data, facsimiles, images and information.</p>
<b>Speakerphone Trade Dress:</b> 	3,100,113	06/06/2006	<p>(I.C. 9) Computer software for teleconferencing and video conferencing; computer software for integrating, controlling, enhancing, securing, and managing video, voice and data communications; computer hardware; speakerphones; teleconferencing, video conferencing and electronic conferencing hardware.</p> <p>(I.C. 38) Audio teleconferencing; network conferencing services; providing facilities and equipment for video conferencing; providing telephone conferencing services; telecommunication services, namely, local and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite</p>

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			transmissions; video teleconferencing; web conferencing services; wireless electronic transmission of voice signals, data, facsimiles, images and information.
<b>KIRK</b>	2,820,870	03/09/2004	(I.C. 9) Portable and wireless telephones, telephone apparatus, namely wireless telephones, wireless pagers and radio modules, pre-recorded compact discs featuring product and installation information and computer software tools for product service, set-up and maintenance, headset for telephones, telephone receivers, covers for telephone receivers and apparatus, battery chargers, batteries for telephones, answering machines, handset keyboard for telephones, protective covers for telephone apparatus, safety line for using with telephone apparatus, telephones wires, belt clips to be used with telephone apparatus, wireless telephone data infra-structure components, namely wireless mobility servers, base stations and repeaters and access points, telephone equipment, namely caller identification boxes.